

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**NELLIE R. ROLLYSON,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 2:08 CV 84  
(Maxwell)**

**MICHAEL O. LEAVITT, in his capacity as  
SECRETARY OF THE U.S. DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,**

**Defendant.**

**ORDER**

On December 10, 2009, Magistrate Judge John S. Kaull filed his Report and Recommendation in the above-styled matter wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. The Plaintiff filed objections on December 22, 2010 . This matter now appears ripe for review.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised in the parties' memorandums were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. The Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the proposed Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Moreover, upon consideration of the Plaintiff's objections, the Court finds that the Plaintiff has not raised any issues that were not thoroughly considered and addressed by the Magistrate Judge in his Report and Recommendation. Therefore, it is

**ORDERED** that Magistrate Judge Kaul's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the Defendant's Cross Motion for Summary Judgment be, and the same hereby is, **GRANTED**. It is further

**ORDERED** that the Plaintiff's Motion for Judgment On the Pleadings be, and the same hereby is, **DENIED**. It is further

**ORDERED** that the decision for the Defendant is **AFFIRMED**. It is further

**ORDERED** that this civil action shall be, and the same hereby is, **DISMISSED** and **STRICKEN** from the docket of this Court.

The Clerk of Court is directed to enter a separate judgment order and to send a copy of this Order to all counsel of record.

**ENTER:** January \_\_14<sup>th</sup>\_\_, 2010

/s/ Robert E. Maxwell  
United States District Judge